

Message Text

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ACTION XMB-04

INFO OCT-01 AF-08 ISO-00 AID-05 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 OPIC-03 SP-02

CIEP-01 LAB-04 SIL-01 OMB-01 /053 W

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P 261800Z APR 76

FM AMEMBASSY KINSHASA

TO SECSTATE WASHDC PRIORITY 7650

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PASS EXIMBANK

E.O.: 11652: N/A - DECONTROLLED DEC 31, 1980

TAGS: EFIN, CG

SUBJ: MODIFICATION OF TRUST ACCOUNT FOR EXIMBANK EXPOSURE ON
INGA-SHABA TRANSMISSION LINE

REF: STATE 99235

1. SUMMARY: REFTEL RECEIVED AFTER DEPARTURE OF LENTZ, WHO IS HANDCARRYING LETTER FROM SNEL TO EXIMBANK. SNEL LETTER ACCEPTS CONDITIONS OF EXIMBANK LETTER OF APRIL 8, 1976, BUT PROPOSES DELETION OF PARA 12 AND MODIFICATION OF PARA 11 BECAUSE OF LEGAL AND ADMINISTRATIVE CONSIDERATIONS. EMBASSY URGES ACCEPTANCE OF PROPOSED REVISIONS BUT NOTES THAT SNEL LETTER OF ACCEPTANCE STATES THAT "DETAILS OF THE ARRANGEMENT WILL BE TO THE MUTUAL SATISFACTION OF ALL PARTIES". END SUMMARY.

2. JOHN LENTZ DEPARTED ZAIRE PRIOR TO RECEIPT OF REFTEL. LENTZ IS HANDCARRYING FOLLOWING LETTER FROM SNEL TO EXIMBANK:

3. BEGIN QUOTE: WE THANK YOU FOR YOUR LETTER, UNDER SUBJECT REFERENCE, DATED APRIL 8, 1976. THE OFFER TO PROVIDE THE FINANCE AND GUARANTEES FOR THE ADDITIONAL DOLLAR COSTS IS APPRECIATED.

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4. THE CONDITIONS PRECEDENT TO DISBURSEMENT ARE NOTED AND WE

WILL ACCEPT YOUR OFFER UNDER THE CONDITION THAT PARAGRAPH 12 IS DELETED AND PARAGRAPH 11 IS MODIFIED AS INDICATED BELOW:

5. AFTER CAREFUL REVIEW OF THE REQUEST TO INITIATE A TRUST FUND BASED UPON REVENUE FROM THE SALE OF POWER, WE FIND THAT THE PROPOSAL AS OUTLINED IN YOUR LETTER, WILL RESULT IN SOME MAJOR ADMINISTRATIVE AND LEGAL PROBLEMS.

6. THEREFORE WE PROPOSE THAT SNEL WILL OPEN THE TRUST FUND IN A TRUSTEE BANK WITH INSTRUCTIONS TO DISBURSE THE FUNDS TO SATISFY THE DEBT SERVICE REQUIREMENTS OF THE EXIMBANK DIRECT LOANS AND GUARANTEES.

7. IN ADDITION, WE WOULD PROPOSE TO INCLUDE THE LOAN BY AMERICAN EXPRESS INTERNATIONAL BANKING CORPORATION WHICH IS RESPONSIBLE FOR 45 PERCENT OF THE FUNDING OF ASEA EQUIPMENT.

8. THE FUND WOULD BE ESTABLISHED BY DEPOSIT OF FOREIGN CURRENCY BY THE GOVERNMENT MARKETING AGENCY SOZACOM OR ANY OTHER AGENCY DESIGNATED BY THE REPUBLIC, TO THE TRUST FUND.

9. THE INSTRUCTIONS TO DEPOSIT THE FUNDS WOULD BE ISSUED TO SOZACOM BY THE BANK OF ZAIRE, THE ONLY AGENCY OF THE REPUBLIC AUTHORIZED TO DISTRIBUTE FOREIGN CURRENCY.

19. THE AMOUNT TO BE DEPOSITED EACH MONTH WOULD BE THAT AMOUNT NECESSARY TO SATISFY THE DEBT SERVICE REQUIREMENTS. COMPENSATING BALANCES IN ZAIRE CURRENCY WOULD BE FURNISHED FROM SNEL INVESTMENT BUDGET.

11. THE DETAILS OF THE ARRANGEMENT WILL BE TO THE MUTUAL SATISFACTION OF ALL PARTIES.

12. THE LOANS TO BE SERVICED BY THE TRUST FUND WILL BE:

SOURCE	CREDIT NO	AMOUNT DLS.
EXIM CREDIT	4684	102,240,000
EXIM CREDIT	4684A	34,262,000
FNCB WITH EXIM GUARANTEE	4685	102,240,000
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FNCB WITH EXIM GUARANTEE	4685	34,000,000
MANUFACTURERS HANOVER TRUST		
WITH EXIM GUARANTEE	4685A	17,131,500
PRIVATE EXPORT FUNDING CORP.		
WITH EXIM GUARANTEE	4685A	17,131,500
AMERICAN EXPRESS INT. BANK. CORP.		
IN AMOUNT 94,412,350 SKR		15,000,000
TOTAL		322,006,000

12. THE CONDITIONS IN PARAGRAPH 12 ARE A MATTER OF GENERAL INTERNAL POLICY OF THE REPUBLIC OF ZAIRE AND WE WOULD PREFER THIS PARAGRAPH BE DELETED SINCE IT IS NO LONGER RELEVANT TO THE PAYMENTS TO THE TRUST FUND.

13. THE REMAINING CONDITIONS PRECEDENT SET FORTH IN YOUR LETTER UNDER REPLY ARE ACCEPTABLE.

14. WE REQUEST THAT YOU WILL PLEASE PROCEED WITH THE PREPARATION OF THE NECESSARY LOAN AGREEMENT AND TRUST FUND DOCUMENTS FOR OUR REVIEW. END QUOTE.

15. WE CAN APPRECIATE EXIMBANK'S CONCERN THAT PREVIOUS LOANS OR GUARANTEES BY EXIMBANK FOR INGA-SHABA FINANCING NOT BE INCLUDED IN ANY DEBT RESCHEDULING AGREEMENT. THE TRUST FUND AS PROPOSED BY SNEL APPEARS TO PROVIDE A MEANS OF PAYMENT FOR BOTH INTEREST AND PRINCIPAL WITHOUT ANY RESCHEDULING. WE EXPECT THAT SNEL'S LETTER TO EXIMBANK WILL BE SIGNED BY CENTRAL BANK GOVERNOR SAMBWA AND COMMISSIONER OF FINANCE BOFOSSA. HOWEVER, WE SHOULD POINT OUT THAT OTHER FOREIGN CREDITORS MAY QUESTION THE EX POST FACTO APPLICABILITY OF A TRUST FUND TO PRIOR LOANS. THE U.S. TRADITIONAL POLICY HAS BEEN EQUAL TREATMENT FOR ALL LENDERS.

16. IT IS OUR UNDERSTANDING THAT THE GECAMINES TRUST FUND WITH IBRD PROVIDES THAT REPAYMENTS OF PRINCIPAL WILL BE MADE FROM REVENUES ARISING SOLELY FROM THE NEW FACILITIES. INITIALLY, PAYMENTS OF PRINCIPAL WILL BE MADE FROM REVENUES ARISING SOLELY FROM THE NEW FACILITIES. INITIALLY, PAYMENTS TO THE TRUST FUND WILL BE MADE FROM REVENUES WHICH CANNOT BE ATTRIBUTED TO THE NEW FACILITIES FINANCED BY THE LOANS PREVIOUSLY MADE BY OR GUARANTEED BY EXIMBANK.

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17. THE SNEL PROPOSAL FOR A DIFFERENT TYPE OF TRUST FUND WAS MADE WITH THE CLOSE COOPERATION OF THE MINISTRY OF FINANCE. WE BELIEVE THAT IT CONSTITUTES A REALISTIC MEANS OF SERVICING THE EXIMBANK LOANS AND GUARANTEES WHILE AT THE SAME TIME TAKING INTO CONSIDERATION PRACTICAL GOZ DIFFICULTIES WITH THE ORIDINAL EXIMBANK PROPOSAL. WE NOTE THAT THE SNEL LETTER OF ACCEPTANCE CONTAINS THE FOLLOWING STATEMENT: "THE DETAILS OF THE ARRANGEMENT WILL BE TO THE MUTUAL SATISFACTION OF ALL PARTIES." SUCH WOULD APPEAR TO GIVE EVERYONE WIDE LATITUDE IN AGREEING ON THE FINAL ARRANGEMENT BUT WE HOPE THAT EXIMBANK WILL BE ABLE TO ACCEPT THE PRINCIPLE OF THE TRUST FUND ARRANGEMENT AS PROPOSED BY SNEL. CUTLER

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Message Attributes

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